



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS  
EASTERN OKLAHOMA REGION  
OSAGE AGENCY  
POST OFFICE BOX 1539  
PAWHUSKA, OKLAHOMA 74056-1539



IN REPLY REFER TO:

Executive Direction

FEB 24 2017

**MEMORANDUM**

From: Superintendent

To: Supervisory Realty Specialist, Lease Management  
Supervisory Environmental Protection Specialist, Lease Compliance  
Supervisory Accounting Specialist, Accounting  
Petroleum Engineer, Subsurface  
Acting Supervisory Petroleum Engineering Technician

Re: Assessment of Civil Monetary Penalties Pursuant to 25 C.F.R. §§ 226.42 and 226.43

The Osage Agency assesses civil monetary penalties for violation of lease terms and/or the regulations set forth in 25 C.F.R. Part 226 pursuant to 25 C.F.R. §§ 226.42 and 226.43. In compliance with the Federal Civil Penalties Adjustment Act Improvement Act of 2015, Sec. 701 of Pub. L. 114-74, the Bureau of Indian Affairs published an adjustment of the civil monetary penalties contained in 25 C.F.R. Part 226 for 2017. See Fed. Reg. 7649 (Jan. 23, 2017). The civil monetary penalties discussed herein have been adjusted accordingly.

The Osage Agency has identified four classes of violations for the purpose of assessing civil monetary penalties. The Osage Agency assesses such penalties pursuant to 25 C.F.R. §§ 226.42 and 226.43 based on a determination as to what class of violation has been committed.

**Violation Categories and Associated Penalties:**

**Class A (\$906.00 per day):** Violations that may be considered hazardous. These types of violations pose a direct threat to the human environment, including air/water quality, biological resources (wildlife, fish, birds, cattle, etc...) and/or adversely affect the

property (soil, vegetation, ponds) of applicable surface owners. Generally, these violations are affiliated with incidents where contamination of the environment has occurred. Class A penalties are assessed pursuant to 25 C.F.R. §§ 226.42 and 226.43(g). Please refer to table titled "Examples of Class A Violations."

**Class B (\$181.00 per day):** Violations that are generally considered to be the result of improper conduct and/or failure to operate the lease in a workmanlike manner. Class B penalties are assessed pursuant to 25 C.F.R. §§ 226.36, 226.42, and 226.43(e). Please refer to table titled "Examples of Class B Violations."

**Class C (\$90.00 per day):** Violations that are considered to be minor regulatory infractions. Class C violations are assessed pursuant to 25 C.F.R. §§ 226.42, 226.43(b), 226.43(c) and 226.43(h). Please refer to table entitled "Examples of Class C Violations."

**Class D (\$362.00 per violation):** Failure to notify Superintendent before drilling, re-drilling, deepening, plugging or abandoning any well as required by §§ 226.16(c) and 226.25. Class D violations are assessed pursuant to 25 C.F.R. § 226.43(f).

### Examples of Class A Violations

<b>Violation</b>	<b>Corrective Action</b>
Failure to properly care for and dispose of deleterious fluids as provided in § 226.22.	Remove all standing oil and/or saltwater, and remediate spill area, including all contaminated soil, to the extent that the affected soils can support growth of new vegetation.
Failure to construct and maintain pits as required by § 226.22.	Empty pit of all fluids at the tank battery, and keep empty. Dispose of contaminated material at an approved location off lease.
Failure to construct and maintain pits as required by § 226.22.	Line pit with no less than 30 mil liner or fill in pit.
Failure to conduct operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any unavoidable nuisance to be maintained on the premises under his/her control as required by § 226.19.	Repair leaking equipment (i.e. salt water pump, clean out plate on gun barrel, dump valve on saltwater tank, etc...).
Failure to conduct operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any unavoidable nuisance to be maintained on the premises under his/her control as required by § 226.19.	Bring all electric up to National Electric Code. Specifically, update all wiring to avoid the likelihood of electrocution hazards to the human environment (i.e. humans, wildlife, cattle, etc...).
Failure to safely and properly temporarily abandon the well bore in accordance with § 226.19, which presents a threat to the human environment.	Properly secure the well bore by installing a bull plug or other capping mechanism approved by the Superintendent.

### **Examples of Class B Violations**

<b>Violation</b>	<b>Corrective Action</b>
Failure to conduct operations in a workman like manner, commit no waste and allow none to be committed upon the land, nor permit any unavoidable nuisance to be maintained on the premises under his/her control as required by § 226.19.	Clean-up conditions around tank battery and well location(s) by keeping oil cans and other trash picked up, i.e., junk, poly pipe and rods, and keep clean.
Same as above.	Remove all equipment and items not necessary to operate the lease. Refrain from relocating the excess equipment and items to another location within the lease.
Same as above.	Confine vehicles to the existing lease road.
Same as above.	Failure to maintain roads, or repair/replace gates or cattle guards to proper condition.
Same as above.	Level and dress location at disturbed site, i.e. well location, tank battery or spill area.
Same as above.	Complete restoration of the spill area by preventing soil erosion until vegetation can be restored to the site.
Same as above.	Install/repair fence around the tank battery/well.
Same as above.	Place proper seal or locking device on the oil tank.
Same as above.	Bury disposal line going to the new tank battery.
Same as above.	Cut and remove excess vegetation around tank battery and well(s).
Same as above.	Install drip pan on purchase sale line at tank battery.

Failure to install an approved gate valve or other controlling device which is in proper working condition for use until the well is completed and at all times maintain proper control of subsurface strata as required by § 226.36.	Install blowout preventer, approved gate valve, or other controlling device.
---	--

**Examples of Class C Violations**

<b>Violation</b>	<b>Corrective Action</b>
Failure to mark wells and tank batteries as required by § 226.34.	Number all oil tanks.
Failure to mark wells and tank batteries as required by § 226.34.	Place/replace/update descriptive signs at the tank battery and well(s) as necessary.
Failure to obtain permission to start operations by 226.16(b).	Obtain permission from Agency.
Failure to file records by 226.32; 226.29; and 226.13	Provide timely lessee reports; plugging reports; completion reports.
Failure to mark wells and tank batteries as required by § 226.34.	Place/replace/update descriptive signs at the tank battery and well(s) as necessary.